

## **REMARKS**

The present amendment is in response to the Office Action dated August 25, 2004. Claims 1-23 are now present in this case. Claims 5-7, 14, 15, 18, 19, 22, and 23 are amended.

The Examiner will kindly note that representation in this matter has been transferred to another attorney. A revocation/substitute power of attorney will be filed in the near future. A change of address and request to amend the attorney docket number are enclosed herewith.

The applicants note that an Information Disclosure Statement and accompanying PTO Form 1449 was filed on July 23, 2001. A copy of the IDS is enclosed for the Examiner's review. The Office Action included initialed references for an IDS from a different case (Application No. 09/777,555). The applicants respectfully request that the Examiner initial the appropriate PTO Form 1449 and make those references of record in the case.

The Office Action raises an objection to the specification because a patent number, not available at the time of filing, was not included although the application serial number was provided. The specification has been amended in accordance with the Examiner's suggestion to include the appropriate patent number.

An objection was raised to the informal drawings. The applicants have provided a set of formal drawings in response to this Office Action. Accordingly, the applicants respectfully request that the objections to the specification and drawings be withdrawn.

The applicants have also changed a reference number in Figure 4, and the corresponding reference number in the specification at page 16, line 18, to eliminate duplicate reference numbers. This does not introduce new matter.

The Office Action objects to claims 5 and 6 due to a minor typographical error in which a word was inadvertently omitted. These claims have been amended in accordance with the Examiner's suggestion. The Office Action raises an objection to claims 14-21 because of a typographical error in claim numbering. Claims 14, 15, 19, and 22 were all intended as apparatus claims depending from claim 12. These claims

have been amended to correct the typographical error. Accordingly, the applicants respectfully request that objections to claims 5, 6, and 14-21 be withdrawn.

The Office Action includes a rejection of claims 7 and 15 under 35 U.S.C. § 112, second paragraph, as indefinite. Although the Office Action refers to claim 15, it is believed that the rejection is intended to apply to claim 18. Claims 7 and 18 have been amended for clarity. Accordingly, the applicants respectfully request a withdrawal of the rejection of claims under 35 U.S.C. § 112, second paragraph.

Claims 1-3, 8-10, 12, 13, and 19 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,426,941 to Vaman et al. The applicants respectfully traverse this rejection. It is noted that Vaman discloses a protection pathway utilized in an ATM cell-based service. Vaman does not ever address any implementation in a virtual private network. As such, Vaman cannot be held to disclose a method that recites "switching traffic from the working virtual private network path to the protection virtual private network path when detected traffic congestion in the working virtual private network path exceeds a predetermined threshold," which is recited in claim 1. Switching from the working virtual private network path to the protection virtual private network path when faced with congestion on the working virtual private network path advantageously enables a network to handle network abnormalities in a seamless manner with respect to user applications. Accordingly, claim 1 is clearly allowable over Vaman. Claims 2-11 are also allowable in view of the fact that they depend from claim 1, and further in view of the recitation in each of those claims.

Claim 12 is an apparatus claim for protection switching of a virtual private network. Claim 12 recites, *inter alia*, a congestion detector that "detects traffic congestion on said virtual private network path," as recited in claim 12. Accordingly, claim 12 is clearly allowable over Vaman. Claims 13-23 are also allowable in view of the fact that they depend from claim 12, further in view of the recitation in each of those claims.

Newly added claims 24-32 are also patentably distinct from the cited references. Vaman does not teach a monitor module "configured to cause a switch in traffic from the working virtual private network path to the protection virtual private network path upon detection of an event selected from a group of events comprising

congestion in the working virtual private network path that exceeds a predetermined threshold and link failure in the working virtual private network path,” as recited in claim 24. Accordingly, claim 24 is clearly allowable over Vaman. Claims 25-28 are also allowable in view of the fact that they depend from claims 24, and further in view of the recitation in each of the claims. Full support for claim 24-28 may be found on pages 12-13 of the specification as originally filed.

Similarly, Vaman does not teach a virtual private network in which a monitor module is configured “to monitor the working virtual private network path to monitor traffic flow thereon, the monitor module configured to cause the router/switch to switch traffic from the working virtual private network path to the protection virtual private network path upon detection of an event selected from a group of events comprising congestion in the working virtual private network path that exceeds a predetermined threshold and link failure in the working virtual private network path,” as recited in claim 29. Therefore, claim 29, and dependent claims 30-32 are allowable over Vaman. Support for these claims may also be found on pages 12-13 of the specification as originally filed.

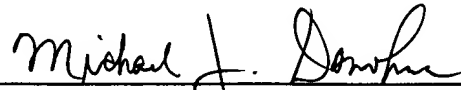
Claims 4-6, 11, 14-17, and 19-23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Vaman combined with U.S. Patent No. 6,532,088 to Dantu et al. The applicants respectfully traverse this rejection. The inapplicability of Vaman has already been discussed above with respect to other claims. It should be noted that Vaman and the present application were commonly owned at the time of invention and are commonly assigned to a single entity. In accordance with 35 U.S.C. § 103(c) Vaman is not available as a reference to be used in an obviousness rejection. Accordingly, the applicants respectfully request that the rejection of claims 4-6, 11, 14-17, and 19-23 be withdrawn.

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. If questions remain regarding the present application, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,

Dongsoo S. Kim et al.

Davis Wright Tremaine LLP

A handwritten signature in black ink, appearing to read "Michael J. Donohue", written over a horizontal line.

Michael J. Donohue  
Registration No. 35,859

MJD:gatc

Enclosures:  
Drawings

2600 Century Square  
1501 Fourth Avenue  
Seattle, Washington 98101-1688  
Phone: (206) 622-3150  
Fax: (206) 628-7699

1598986\_1.DOC